

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:20-cv-00317-SEP
	)	
PEABODY ENERGY CORPORATION	)	
	)	
and	)	
	)	
ARCH COAL, INC.,	)	
	)	
Defendants.	)	

**ORDER RELATING TO HEARING**

This action is set for a ten-day preliminary injunction hearing beginning on **July 13, 2020**, at **9 AM CT**. In addition to the deadlines set out in the Joint Stipulated Modified Case Management and Scheduling Order (“CMO”), Doc. [131], the following schedule shall apply in this case and will be modified only upon a showing of exceptional circumstances:

No later than **5 PM CT on Monday, July 6, 2020**, the parties shall submit the following:

**1. Stipulation:** A joint stipulation of all uncontested facts, which may be submitted into evidence subject to any objections of any party set forth in said stipulation.

**2. Witnesses:**

(a) The parties’ Final Witness Lists, as defined in CMO ¶ 15(c), identifying those witnesses who will be called to testify and those who may be called.

(b) Except for good cause shown, no party will be permitted to call any witnesses not listed in compliance with this Order.

**3. Exhibits:**

(a) Final Exhibit Lists, as dictated by CMO ¶ 35, with all exhibits to be offered in evidence at the trial marked for identification (Plaintiff to use Arabic numerals and Defendants to use letters, *e.g.*, Plt.-1, Def. Peabody-A, Def. Arch-A, etc.).

(b) Except for good cause shown, no party will be permitted to offer any exhibits not identified or not submitted by said party for examination by opposing counsel in compliance with this Order.

**4. Depositions, Interrogatory Answers, and Request for Admissions:**

(a) A list of all interrogatory answers or parts thereof and depositions\* or parts thereof (identified by page and line numbers), and answers to requests for admissions proposed to be offered in evidence. Opposing counsel shall state in writing any objections to such testimony and shall identify any additional portions of such depositions not listed by the offering party which opposing counsel proposes to offer no later than **5 PM CT on Wednesday, July 8, 2020.**

\*Per CMO ¶ 16(e), the parties plan to devise an alternative to designation for transcripts of investigational hearings and depositions. If they do, they may modify this designation requirement as applied to those materials, as long as they provide the Court with an accounting of which deposition and hearing transcripts they intend to submit into evidence by no later than **5 PM CT on Monday, July 6, 2020.** They may also address objections to such materials by a method of their own devising, as contemplated by CMO ¶ 16(e), provided that all such objections have been addressed before the parties provide an accounting to the Court pursuant to this Order. Any objections that have not been so resolved should be submitted as required in the foregoing paragraph.

(b) Except for good cause shown, no party will be permitted to offer any interrogatory answer, or deposition or part thereof, or answer to a request for admissions not listed in compliance with this Order. Any objections not made as above required may be considered waived.

**5. Trial Brief:** Submit to the Court and opposing counsel a trial brief of **no longer than five (5) pages** describing in brief any anticipated evidentiary or procedural problems.

Failure to comply with any part of this order may result in the imposition of sanctions.

Dated this 19th day of June, 2020.



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SARAH E. PITLYK  
UNITED STATES DISTRICT JUDGE